IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

WEDNESDAY, THE 31ST OCTOBER 2007 / 9TH KARTHIKA 1929

WP(C).No. 28751 of 2007(W)

PETITIONER:

N.DIVAKARAN,S/O.KUNJUMON, AGED 55 YEARS
NARATHAL HOUSE, POST KANJIRAMUKKU,
MARANCHERRI-679 584.

BY ADV. SRI.SANTHEEP ANKARATH
SMT.S.SUJA

RESPONDENTS:

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1. MARANCHERRI GRAMA PANCHAYATH
REPRESENTED BY ITS SECRETARY,
PANCHAYAT OFFICE,MARANCHERRI
MALAPPURAM DISTRICT.

2. SUBHASH,S/O. UNNIKRISHNAN,
NECHIVALAPIL HOUSE,
POST KANJIRAMUKKU,
MARANCHERRI -679 584.

BY ADV. SRI.V.V.SURENDRAN
SRI.P.A.HARISH
SRI.T.SETHUMADHAVAN
SRI.K.JAYESH MOHANKUMAR

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 31/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

PIUS C. KURIAKOSE, J.

W.P.(C) No. 28751 OF 2007

Dated this the 31st day of October, 2007

JUDGMENT

Even though very strenuous and elaborate arguments were addressed before me by the counsel appearing for the parties, namely Sri.Santheep Ankarath for the petitioner, Sri.P.A.Harish for the party respondent and Sri.T.Sethumadhavan for the Panchayat, I do not propose to decide the issues which have arisen between the parties. Going by the statement submitted by the Panchayat a stop memo has been issued to the 2nd respondent. As directed by me, Sri.Sethumadhavan, counsel for the Panchayat has handed over copy of that stop memo to Sri.Harish, who received it on behalf of the 2nd respondent. So long as the stop memo is in currency, the same has to be obeyed. 1st respondent should ensure that the 2nd respondent obeys the same. The 2nd respondent is permitted to file his objections to the above stop memo before the 1st respondent within two weeks from today. The 1st respondent will on receiving objections hear the petitioner on the objections and pass orders within 7 days of the 2nd respondent filing the objections. Once orders are passed in the matter by the 1st respondent, those orders will be communicated to the 2nd respondent also. The continuance of the constructions by the 2nd respondent will be

on the basis of the orders to be passed by the Panchayat. As for the grievance of the petitioner that the construction as could be discerned from the Writ Petition and from Ext.P8 plaint is that the construction taken up by the 2nd respondent actually encroaches into the petitioner's property, it is for the parties to have those grievances considered and adjudicated by a competent Civil Court. Once the Panchayat withdraws the stop memo, the petitioner will be free to continue with the works. But, such works will be subject to the final outcome of the proceedings presently pending before the Civil Court.

PIUS C. KURIAKOSE, JUDGE

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